IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.3238 OF 2006

Shri Mohanlal Umedmal Oswal & Ors. ..Petitioners.

V/s.

Shri Babulal Manganlal Oswal & Ors. ..Respondents.

Mr.Sanjay Prabhu i/b. N.V.Bandiwadekar for petitioners.

Mr.Mandar Limaya for respondents.

CORAM : R.M.SAVANT, J.

DATED : 6TH JUNE, 2007.

P.C. :-

This petition is filed under Article 227 of the Constitution of India challenging the order passed by the Deputy Director of the Land Record, Pune in C.T.S. No.512 of 1994. By the said order, the appeal filed by the respondents herein came to be allowed.

2. The dispute is in respect of the deletion of the name of the heirs of one Umedmal Oswal, who was the original owner of the property in question i.e. land bearing Survey No.1511, C-ward, Kolhapur. The Second Appeal filed by the petitioner being S.A. No.605 of 1974 came to be dismissed by this Court. The said Second Appeal was concerning the subject land in question.

3. The respondents herein had filed a Darkhast for execution of the decree passed in the Second Appeal in which Darkhast proceedings, the petitioner herein handed over possession of the land in question. Thereafter, since the petitioners started obstructing the respondent No.1, he herein had filed Suit being Regular Civil Suit No.963 of 1992. The said suit came to be decreed by the learned Civil Judge, J.D. Kolhapur against which the respondents filed appeal bearing No.269 of 1996, which also came to be dismissed by the Vth Additional District Judge, Kolhapur. The petitioners have now filed a Second Appeal No.486 of 2003 which is pending in this Court and in which no stay has been granted.

4. A sequence of the above facts disclose that the Respondents are in possession of the said land in question and, therefore, the Appellate Authority, in the light of the said facts has confirmed the deletion of names of heirs of Umedmal Oswal. I do not find any illegality and infirmity committed by the said authority for this Court to interfere under Article 227 of the Constitution of India.

5. Petition is, therefore, summarily dismissed.

(R.M.SAVANT, J.)